

61 BROADWAY, SUITE 3000  
NEW YORK, NEW YORK 10006  
212-344-7042

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BASLER SECURITES VERSICHERUNGS  
AG

Plaintiff,

against

AMERICAN AIRLINES, INC.; EXPEDITORS  
INTERNATIONAL OF WASHINGTON, INC.;  
TOWNE AIR FREIGHT, INC.; and CENTRAL  
STATES TRUCKING COMPNAY

Defendants.

**07 CV 7866 (Judge Preska)**  
**ECF**

**CENTRAL STATES  
TRUCKING ANSWER TO  
EXPEDITORS CROSS CLAIMS**

Defendants Central States Trucking Company (hereinafter "CST") by and through their attorneys, Cichanowicz, Callan, Keane, Vengrow & Textor, LLP, upon information and belief, Answer the Co-Defendant Expeditors International of Washington (hereinafter referred to as "Expeditors"), Cross Claim within Complaint 07 CV 7866 as follows:

**AS AND FOR EXPEDITORS' FIRST CROSS CLAIM**

1. CST repeats each and every admission, denial and denial of knowledge or information contained in its Answer to the Complaint with the same force and effect as if herein set forth at length.
2. CST denies all of the allegations against it set forth in Expeditors First Cross Claim; further CST is not required to respond to allegations directed at any other party.

**AS AND FOR EXPEDITORS' SECOND CROSS CLAIM**

herein set forth at length.

4. CST denies all of the allegations against it set forth in Expeditors Second Cross Claim; further CST is not required to respond to allegations directed at any other party.

### **AFFIRMATIVE DEFENSES**

#### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

1. Any shipments that were carried by CST are subject to all of the terms and conditions of the applicable contracts of carriage, other contracts, bills of lading, tariffs, and/or applicable regulations, statutes or treaties. CST duly performed the terms and conditions on its part to be performed under these contracts of carriage, other contracts, bills of lading, tariffs, and/or applicable regulations, statutes or treaties therefore barring recovery.

#### **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

2. To the extent that the Carmack Amendment, 49 U.S.C. § 14706, is applicable, CST claims all benefits, defenses and exemptions of the aforementioned statute to the full extent they may be applicable.

#### **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

3. To the extent that the Warsaw Convention, formally known as the Convention for the Unification of Certain Rules Relating to International Transportation by Air, Oct. 12, 1929, 49 Stat. 3000, 137 L.N.T.S. 11, *reprinted in* 49 U.S.C.A. § 40105, is applicable, CST claims all benefits, defenses and exemptions of the aforementioned statute to the full extent they may be applicable.

#### **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

4. Expeditors Cross Claims should be dismissed for lack of jurisdiction over CST.

#### **AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

6. Expeditors Cross Claims should be dismissed on the basis of improper notice to CST.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

7. Expeditors Cross Claims should be dismissed on the basis of forum non conveniens and/or improper venue.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE**

8. If the shipment in question suffered any damage, which is denied, such damage was caused by the acts or omissions of third parties over whom CST had no control.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

9. CST as agent for a disclosed principal, cross claimant Expeditors International of Washington, must defend, hold harmless and fully indemnify CST.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

10. Expeditors Cross Claims, if any, are, or may be barred or limited by its own assumption of risk, or the assumption of risk by its agents, employees or representatives.

**AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE**

11. CST's liability, which is denied, is limited in accordance with the applicable contracts of carriage, other contracts, bills of lading, tariffs, and/or applicable regulations, statutes or treaties.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

12. Expeditors Cross Claims, if any, are, or may be barred or limited in whole or in part an act or omission of the Expeditors and/or its agents, employees or representatives.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

14. That if a cargo was damaged, which is denied, then such damage resulted from a cause arising without the actual fault and privity of CST and without the fault or neglect of the agents and/or servants of CST.

**AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

15. The damage to the subject cargo, which is denied, had already been noted upon CST receipt.

**WHEREFORE**, Defendant CST prays that Expeditors Cross Claims against it be dismissed, that the Complaint against it be dismissed and that its Contingent Cross Claims be granted and that the Court may grant such other or further relief as may be just and proper.

Dated: New York, New York  
January 10, 2008

CICHANOWICZ, CALLAN, KEANE,  
VENGROW & TEXTOR, LLP  
*Attorneys for Central States  
Trucking Company*

By: S/ Paul M. Keane (PMK-5934)  
61 Broadway, Suite 3000  
New York, NY 10006

The undersigned declares under penalty of perjury that the following is true and

correct:

1. I am over the age of eighteen years and I am not a party to this action.
2. On January 10, 2008 I served by ECF and US Mail a complete copy of Central

States Trucking Company Answer to Expeditors Cross Claim to the following parties:

Hill Rivkins & Hayden  
Attention: James Saville, Esq.  
45 Broadway, Suite 1500  
New York, NY 10006  
212-669-0600  
*Attorney for Plaintiff*

Mound Cotton Wollan & Greengrass  
One Battery Park Plaza  
New York, NY 10004  
*Attorneys for American Airlines*

Barry Gutterman & Associates  
The Lincoln Building  
60 East 42nd Street, 46<sup>th</sup> Floor  
New York, NY 10165  
*Attorneys for Towne Air Freight, Inc.*

Badiak & Will  
Attention: Jim Krauzlis, Esq.  
106 3<sup>rd</sup> Street  
Mineola, New York 11501  
516-877-2225  
Ref: 07-T-004-JK  
*Attorney for Expeditors International*

DATED: January 10, 2008  
New York, New York

S/ Jessica De Vivo (JAD/6588)  
Jessica De Vivo, Esq.